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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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EXAMINER

LY, NGHI H

ART UNIT PAPER NUMBER

2682

DATE MAILED: 08/21/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

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Advisory Action

Application No.

09/898,357

Applicant(s)

JOYCE ET AL.

Examiner

Nghi H. Ly

Art Unit

2682

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 August 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-23,25 and 26.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

DETAILED ACTION***Response to Arguments***

1. Applicant's arguments filed 08/02/02 have been fully considered but they are not persuasive.

On page 2 lines 17-21 of applicant's remarks, applicant argues that Hollenberg does not say anything about determining if the mobile terminal is within a defined area associated with a point of presence and there is nothing in Hollenberg indicates that anything determines if the mobile terminal is within a defined area associated with a point of presence, also on pages 2 and 3 of applicant's remarks, applicant further argues that there is still not a teaching of Hollenberg that a defined area associated with a point of presence is ever defined or that mere entry into the defined area associated with a point of presence causes the provision of content for the points of presence within the defined area.

In response, the examiner, however, disagrees. Applicant's attention is directed to Hollenberg (column 16 lines 19-25) which clearly teaches whenever the mobile user approaches within a selectable distance of environment proximate information feature, such as retail store site, an advertising message such as service provider menu, or an optional advertising message, will be provided for the user. The examiner interprets "retail store site" in Hollenberg as "a point of presence" and "selectable distance of environment" as a "locality" (or a defined area associated with a point of presence). In addition, any mobile

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terminal approaches within the locality (or a defined area associated with a point of presence) will receive advertising message.

Column 11 lines 43-56, Hollenberg further teaches that whenever the mobile user enter a shopping area (or a defined area associated with a point of presence) such as the retailer, then the retailer will transmit services to the mobile user.

Therefore, Hollenberg does indeed teach the claimed limitation.

On page 3 lines 19-28 of applicant's remarks, applicant argues that claims 11 and 22 do recite two zones: "zone of acceptance" and the other "the locality, surrounds the point of presence" and that, Hollenberg teaches only one zone (zone of acceptance) and not the locality.

In response, the examiner, however, disagrees. Applicant admits that Hollenberg teaches the "zone of acceptance" (see page 3 of applicant's response). In addition, see Hollenberg column 9 lines 11-14. Hollenberg also teaches the "the locality, surrounds the point of presence", see (column 16 lines 19-25 and column 11 lines 43-56) and examiner's response as set forth above.

For the above reasons, the examiner contents that the rejection to claims are proper.

Conclusion

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nghi H. Ly whose telephone number is (703)

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605-5164. The examiner can normally be reached on 8:30 am-5:30 pm Monday-Friday.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on (703) 308-6739. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Nghi H. Ly



August 15, 2002


8/15/02

NGUYEN T. VO
PRIMARY EXAMINER